

1 Jonathan M. Lebe, State Bar No. 284605  
2 Jon@lebelaw.com  
3 Zachary Gershman, State Bar No. 328004  
4 Zachary@lebelaw.com  
5 **Lebe Law, APLC**  
6 777 S. Alameda Street, Second Floor  
7 Los Angeles, CA 90021  
8 Telephone: (213) 444-1973

9  
10 *Attorneys for Plaintiffs and the Proposed Class*

11  
12  
13  
14  
15                   **UNITED STATES DISTRICT COURT**  
16                   **NORTHERN DISTRICT OF CALIFORNIA**

17 IN RE UKG INC CYBERSECURITY  
18 LITIGATION

19 THIS DOCUMENT RELATES TO:

20 All Actions.

21 Case No.: 3:22-cv-00346-SI

22  
23                   **DECLARATION OF JONATHAN M. LEBE**  
24                   **IN SUPPORT OF MOTION FOR FINAL**  
25                   **APPROVAL OF CLASS ACTION**  
26                   **SETTLEMENT**

27                   **Date: November 17, 2023**

28                   **Time: 10:00 a.m.**

1                   **Dept.: Courtroom 1, 17th Floor**

2                   **Judge: Honorable Susan Illston**

## **DECLARATION OF JONATHAN M. LEBE**

I, Jonathan M. Lebe, declare as follows:

1. I am an attorney duly licensed to practice law before all courts in the State of California. I am the Managing Attorney of Lebe Law, A Professional Law Corporation and I represent Cindy Villanueva (“Plaintiff”) in this action. I have personal knowledge of the facts set forth herein and, if called and sworn in as a witness, could and would testify competently thereto.

2. I submit this supplemental declaration in support of Plaintiffs' Motion for Final Approval of Class Action Settlement.

3. The deadline to make a claim passed on October 3, 2023. Kroll is currently performing its review of all submitted claims to determine their validity and approve the claim or allow for a claimant to cure any deficiencies. As of October 17, 2023, Kroll has determined there are 21,047 valid and timely claims valuing approximately \$1,857,600.

4. Per the Settlement Agreement, UKG has confirmed that it posted to its own website information about the Settlement to direct Class Members to the Settlement Website (<https://www.ukg.com/kronos-private-cloud-kpc-settlement>); and sent an email communication to all of its clients impacted by the KPC outage advising them of the Settlement so they could at their election notify their employees on July 3, 2023 of the Settlement.

5. Following settlement, Defendant produced substantial confirmational discovery, which allowed Plaintiffs and their Counsel to further verify their representations on which the settlement in this action was based. Discovery revealed that of UKG's approximate 2,000 customers, two entities suffered exfiltration of personal data, which aligns with the data breach letters transmitted on UKG's behalf to the two effected employers/employees.

6. Class Counsel and Kroll will submit supplemental declarations regarding the claims validation process and value of the claims no later than November 14, 2023.

7. Given that the Exfiltration Class includes less than 20,000 people, proposed Class Counsel believes that all claims should be sufficiently funded.

111

111

## **Experience of Class Counsel**

8. I received Bachelor of Arts degrees in Political Science and International Studies from Northwestern University in 2008. I received my Juris Doctorate from Santa Clara University School of Law in 2012. During law school, I was a legal extern to the Honorable Nandor J. Vadas of the U.S. District Court, Northern District of California. I also had legal internships during law school with the Civil Division of the U.S. Attorney's Office and the Complex Litigation Division of the San Francisco City Attorney's Office.

9. I was admitted to the California State Bar in the Fall of 2012. I am admitted to practice in all state courts in California and in all United States District Courts in California.

10. Upon admission to the State Bar, I became a Deputy County Counsel in the Litigation Section of the Santa Clara County Counsel's office. The Santa Clara County Counsel's office is one of the largest and most sophisticated offices of government lawyers in the county. The County Counsel's office engages in significant impact litigation and, of course, is responsible for the legal representation of the County. In my capacity as Deputy County Counsel, I litigated cases ranging from employment disputes to constitutional challenges to County jail policies.

11. Before starting my own firm, I also worked as an associate attorney with Lawyers for Justice, P.C., a class action law firm in California. In that capacity, I was responsible for the day-to-day management of numerous wage and hour class actions at a given time.

12. I started my own law firm in early 2016. In 2018, 2019, 2020, 2021, and 2022 I was selected as a Super Lawyer Rising Star based on nominations from my peers, a distinction only received by 2.5% of attorneys. The vast majority of my practice consists of litigating wage and hour class actions filed in California. Some of our firm's representative matters include:

a. *Midwest Motor Supply Co. v. Superior Court* (2020) 56 Cal.App.5th 702: In its published opinion, the Court of Appeal affirmed the trial court's denial of Defendants' motion to dismiss or stay action for forum non conveniens because Defendants' purported forum selection clause was unenforceable under Labor Code section 925.

b. *Zakaryan v. The Men's Wearhouse, Inc.* (2019) 33 Cal.App.5th 659: In its published opinion, Court of Appeal affirmed a trial court's denial of Defendants' motion

1 to compel arbitration (disapproved on another ground in *ZB, N.A. v. Superior Court*  
 2 (2019) 8 Cal.5th 175).

3 13. I have been appointed certified Class Counsel in the following proceedings in  
 4 connection with approvals of class action and Private Attorney General Act settlements: *Amie*  
 5 *Pfiefer v. Zesty Inc.*, San Francisco Superior Court, CGC-19-574570; *Anthony Dirico, et al. v. Seek*  
 6 *Capital, LLC*, Los Angeles Superior Court Case No. BC698076; *Brandon Centino v. Arrowhead*  
 7 *Products, Orange County Superior Court*, Case No. 30-2018-00988493; *Donna Burris v. Resort*  
 8 *Vacations, Inc.*, Orange County Superior Court, Case No. 2018-00997260; *Elizabeth Merritt v.*  
 9 *Houzz Inc.*, Santa Clara Superior Court, Case No. 19CV341181; *Janet Manteon v. M.A.C.*  
 10 *Cosmetics, Inc.*, Los Angeles County Superior Court, Case No. BC702940; *Jamal Holcomb v.*  
 11 *Weiser Security Services, Inc.*, Los Angeles Superior Court, Case No. 19STCV03843; *Jerome*  
 12 *Hughes, et al. v. Surveillance Security, Inc.*, Judicial Coordination Proceeding Case No. 4969;  
 13 *Jihwan Kim v. Demandforce, Inc.*, San Francisco Superior Court, Case No. CGC-18-570997;  
 14 *Jordan Olson v. Medtronic, Inc., et al.*, San Francisco Superior Court, Case No. CGC-19-576875;  
 15 *Joseph Jun Caballero v. MLTD, Inc.*, Los Angeles Superior Court Case No. BC659936; *Kendall*  
 16 *Klette v. Balboa Capital Corporation*, Orange County Superior Court, Case No. 30-2018-  
 17 00970552; *Kevin Klein v. Loomis Armored, US LLC*, San Bernardino Superior Court Case No.  
 18 CIVDS1704547; *Leslie Walling v. National Funding Inc.*, San Diego Superior Court, Case No.  
 19 201800061889; *Lorena Sanchez v. Valley Presbyterian Hospital*, Los Angeles Superior Court Case  
 20 No. BC678638; *Lucas Cardena v. Strata Capital Corporation*, Orange County Superior Court,  
 21 Case No. 30-2018-01041233-CU-OE-CXC; *Michael Schmitz, et al. v. HealthIQ Re Inc.*, Santa  
 22 Clara Superior Court, Case No. 18CV337951; *Patricia Martinez v. Whaler LLC*, Los Angeles  
 23 Superior Court Case No. BC621047; *Rhett Hubbard v. Caliber Home Loans, Inc.*, Orange County  
 24 Superior Court, 30-2018-01017838; *Shameka Watson v. Aegis Security & Investigations Inc.*, Los  
 25 Angeles Superior Court Case No. BC695411; *Shayna Amster v. Starbucks Corporation*, San  
 26 Bernardino Superior Court, Case No. CIVDS1922016; *Suzana Mederos v. Consolidated Disposal*  
 27 *Service, L.L.C.*, Los Angeles Superior Court, Case No. BC677379; *Tyler Jones, et al. v. Citiguard,*  
 28 *Inc.*, Los Angeles County Superior Court Case No. BC664890; *Lamir McQueen v. City of Santa*

1 *Monica*, Los Angeles County Superior Court Case No. BC627227; *David Kassis v. Paychex North*  
 2 *America Inc.*, Sacramento County Superior Court Case No. 2019-00270896-CV; *George Van Heel*  
 3 *v. GCA Educational Services, Inc.*, Los Angeles County Superior Court Case No. 19STCV44969;  
 4 *Don Vasquez v. Milk Specialties Company*, Tulare County Superior Court Case No. VCU282778;  
 5 *Chafen Suttle v. Children's Hospital Los Angeles*, Los Angeles County Superior Court Case No.  
 6 19STCV46960; *Tanya Savidis v. Lumber Liquidators Inc.*, Alameda County Superior Court Case  
 7 No. RG20057480; *Patrick Finch v. Midwest Motor Supply Co.*, Contra Costa Superior Court Case  
 8 No. CIVMSC19-02038; *Beniyam Kebede v. Wrike, Inc.*, Santa Clara County Superior Court Case  
 9 No. 20CV366599; *Jason Mitchiner v. Move Sales, Inc.*, Los Angeles County Superior Court Case  
 10 No. 20STCV23141; *Craig Russell v. Nutanix, Inc.*, Santa Clara County Superior Court Case No.  
 11 20CV3669431; *James Fleming v. Mission Linen Supply*, Sacramento County Superior Court Case  
 12 No. 2019-00267357-CV; *LaDonna Page v. Insource Performance Solutions, LLC*, Alameda  
 13 Superior Court Case No. RG21096367.

14       14. I consider myself experienced and qualified to evaluate the class claims and viability  
 15 of the defenses. Based on the history of the above-captioned case, and given my experience and  
 16 analysis, it is my view that the settlement is fair, reasonable, and adequate, and in the best interest  
 17 of the class members. Had the litigation not reached the proposed settlement set forth in the  
 18 Settlement Agreement, I would have continued to prosecute the class's claims through certification,  
 19 trial and beyond.

20       15. Zachary Gershman is an associate attorney of Lebe Law, APLC in good standing of  
 21 the State Bar of California and admitted to practice in all state courts in California, and in the  
 22 Central, Eastern, and Northern United States District Courts in California.

23       16. Mr. Gershman began working for Lebe Law, APLC in August of 2019 as a law clerk  
 24 after graduating from the USC Gould School of Law in May of 2019, where he was an Executive  
 25 Senior Editor of the Southern California Law Review. He received his Bachelor of Arts degree in  
 26 Political Science from the University of Connecticut in 2015. He was admitted to the California  
 27 State Bar on December 2, 2019.

28

1       17.     Brielle D. Edborg is an associate attorney of Lebe Law, APLC in good standing of  
 2 the State Bar of California and admitted to practice in California.

3       18.     Ms. Edborg began working for Lebe Law, APLC in September of 2022 as an  
 4 associate attorney after graduating from Pepperdine Carudo School of Law in May of 2022. She  
 5 received her Bachelor of Arts degree in English from SUNY Old Westbury in 2019. She was  
 6 admitted to the California State Bar on December 8, 2022.

7       19.     Nicolas Tomas was an associate attorney of Lebe Law, APLC during the prosecution  
 8 of this matter, and to the best of my knowledge is in good standing of the State Bar of California  
 9 and admitted to practice in California.

10      20.     Mr. Tomas worked for Lebe Law, APLC from November of 2021 through August  
 11 of 2022 as an associate attorney after graduating from Loyola Law School in May of 2021. To the  
 12 best of my knowledge, he received his Bachelor of Science degree in Nutrition from California  
 13 Polytechnic University, Pomona in 2016. He was admitted to the California State Bar on November  
 14 19, 2021.

#### Attorneys' Fees and Costs

15      21.     As of the filing of Plaintiff's Motion for Final Approval of Class Action Settlement,  
 16 I have worked a total of 195.3 hours on this case. My work on this case has consisted of conducting  
 17 initial investigations, drafting the initial complaint and administrative correspondence for my client,  
 18 assisting in the preparation for mediation including assisting in the drafting of the briefing,  
 19 participating in post-mediation settlement discussions, assisting in the drafting of the long-form  
 20 settlement agreement in this matter, attending hearings, and preparing the final approval motion in  
 21 this matter. At my billable rate of \$800 per hour my lodestar attorney's fees, before any multiplier,  
 22 amount to \$156,240. Moreover, my firm has incurred \$7,291.62 in costs in this matter as of this  
 23 time. My rate with annual increases has been approved by other California courts, including those  
 24 listed in paragraph 8. Attached as "**Exhibit A**" to my declaration filed in support of Plaintiff's  
 25 Motion for Attorneys' Fees, Dkt. No. 76-6, is a breakdown of my firm's current costs in this matter.

26      22.     As of the filing of Plaintiff's Motion for Final Approval of Class Action Settlement,  
 27 Mr. Gershman has expended a total of 180.2 hours in the prosecution of this matter. His work on

1 this case has consisted of assisting in the preparation for mediation including assisting in the drafting  
 2 of the briefing, assisting to draft informal discovery, participating in post-mediation settlement  
 3 discussions, assisting in the drafting of the long-form settlement agreement in this matter, attending  
 4 hearings, working with the settlement administrator, participating in phone calls with all counsel and  
 5 the settlement administrator regarding additional notice to the class, and assisting in the drafting of  
 6 the final approval motion. None of his time duplicated the time expended by others. Mr.  
 7 Gershman's rate with annual increases has also been approved by other California courts, including  
 8 in those listed in paragraph 8. At his requested rate of \$475, his fees calculate out to \$85,595.

9       23. As of the filing of Plaintiff's Motion for Final Approval of Class Action Settlement,  
 10 Mr. Tomas has expended a total of 52.9 hours in the prosecution of this matter. His work on this  
 11 case has consisted of conducting initial investigations and performing legal research in the data  
 12 privacy space, assisting in the drafting of the initial complaint and administrative correspondence  
 13 for my client, and participating in discussions with other counsel. None of his time duplicated the  
 14 time expended by others. At his requested rate of \$350, his fees calculate out to \$18,515.

15       24. As of the filing of Plaintiff's Motion for Final Approval of Class Action Settlement,  
 16 Brielle Edborg has expended a total of 5.5 hours in the prosecution of this matter. Her work in this  
 17 case consisted solely of performing additional legal research and communicating with plaintiff  
 18 Villanueva. None of her time duplicated the time expended by others. At her requested rate of \$300,  
 19 her fees calculate out to \$1,650.

20       25. As of the filing of Plaintiff's Motion for Final Approval of Class Action Settlement,  
 21 the combined lodestar for Lebe Law APLC in this matter is \$262,000.

22       26. I have been practicing law for over ten years, and I have significant experience, skill,  
 23 and expertise in class action matters. My firm, Lebe Law, APLC, sets the billing rates of its attorneys  
 24 to be consistent with the prevailing market rates in the private sector for attorneys and staff of  
 25 comparable skill, qualifications and experience by monitoring the prevailing market rates charged  
 26 by both defense and plaintiff law firms. According to the 2023 Laffey Matrix, relevant portions of  
 27 which are attached as "**Exhibit B**" to my declaration filed in support of Plaintiff's Motion for  
 28 Attorneys' Fees, Dkt. No. 76-6, my requested hourly rate of \$800 is reasonable for an attorney that

1 is eleven years out of law school. In fact, my requested hourly rate is \$29 per hour less than the  
2 suggested rate for an attorney in his eleventh year of practice. Furthermore, according to the Laffey  
3 Matrix, Mr. Gershman's requested hourly rate of \$475 is reasonable, as it is \$33 less per hour than  
4 the median hourly rate for an associate between their fourth and seventh year of practice. While,  
5 finally, both Ms. Edborg's and Mr. Tomas's hourly rate of \$300 and \$350 per hour respectively is  
6 also reasonable as these rates are \$103 less, and \$53 less, than the proposed rate for an associate  
7 between their first and third years of practice and is in line with rates typically approved in wage-  
8 and-hour class action litigation in California.

9       27. Class Counsel has undertaken representation at their own expense, with  
10 compensation wholly contingent upon providing a benefit to the Class and I believe that the Class  
11 Members will benefit significantly by the terms of the proposed Settlement by receiving substantial  
12 monetary compensation.

13       28. The lodestar multiplier based on the hours submitted by Class Counsel amount to an  
14 approximate multiplier of 1.53.

15 I declare under penalty of perjury under the laws of United States of America that the  
16 foregoing is true and correct. Executed on October 17, 2023, in the City of Los Angeles in the State  
17 of California.

/s/ Jonathan M. Lebe

JONATHAN M. LEBE